

Appl. No. 10/050,520
Amdt. dated Aug. 26, 2004
Reply to Office Action of July 20, 2004

REMARKS/ARGUMENTS

By the above amendment, Applicant has rewritten all claims to define the invention more particularly and distinctly to overcome the technical rejections and define the invention patentably over the prior art.

The Rejection Of Claims 59-83 On Annunziata are Overcome

As The Rewritten Claims Recite Novel Physical Features

The last OA rejected independent claims 59 and 72 and dependent claims 60-71 and 73-83 on Annunziata. The independent and dependent claims have been rewritten to define patentability over this reference.

Applicant requests reconsideration of this rejection, as now applicable to claims 59 to 83 for the following reasons:

(1) With regard to the rewritten independent claims 59 and 72. The applicant's device includes anti-rotation means for engaging the loop member to disallow rotation of the loop member from one of the selectable positions. In exemplary embodiments, selectable teeth and notches in a support member are shown throughout the disclosure as interengaging with teeth and notches of the loop member. The teeth of the support member effectively act as détentes and the intersecting members thusly provide anti-rotation means disallowing rotation of the loop member from a selectable position. Stated otherwise, the applicant's device includes selectable anti-displacement means for engaging the continuous loop member to disallow movement of the continuous loop member from a first one of the selectable positions to a second one of the selectable positions.

(2) The Annunziata device does not include anti-rotation means for engaging the loop member to disallow rotation of the loop member from one of the selectable positions. Nor does the Annunziata device include selectable anti-displacement means for engaging the continuous loop member to disallow movement of the continuous loop member from a first one of the selectable positions to a second one of the selectable positions.

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(3) There is no suggestion in the Annunziata disclosure that such means should be employed. Given the device design and objectives of the invention (Column 1, lines 16-20 & lines 32-37) it is not seen how such means could be employed.

(4) There is also no indication in Annunziata that consideration should be given to otherwise construct the loop member, or any cooperating members, in order to disallow loop rotation (or loop movement from a first selectable position to a second selectable position). Such construction would reasonably require special die cutting or other processing, which Annunziata teaches against (Column 3, lines 70-75 & Column 4, lines 1-5).

(5) All Annunziata embodiments use only rectangular label members for forming both the rotatable continuous loop and the cooperating labels. In the embodiment which is closest to the applicant's device (Fig. 6), the upper straight edge of a conventional full size label engages the lower straight edge of the loop member to limit only vertical displacement (Column 3, lines 1-2 & lines 58-60) of the loop on a conventional medicinal container (Column 3, lines 50-51). The applicant wishes to point out that such engagement is material to correct operation of the Annunziata device. Furthermore, a significant advantage is ascribed to the use of a conventional full size pharmacist's label in the device (Column 3, lines 70-75 & Column 4, lines 1-5).

(6) With regard to consideration of a possible rejection on Hoffman (U.S. No. 5,482,163) or the combination of Hoffman with Annunziata. The applicant would like to respectfully point out that in relation to the present application for patent, the claim limit of a continuous loop member has previously successfully overcome an objection on Hoffman. The argument is presented again here. The rotatable ring in the Hoffman invention is constructed as a formed split ring (i.e. discontinuous loop), relying on this expandable construction for the ability to mount and dismount the ring on the wall of the container, and for the ability to displace the mounted ring correctly in operation. There is no suggestion that the ring could be formed as a continuous loop and mounted, or mounted and then formed into a continuous loop or that a continuous loop ring could be made to work. Hoffman also specifically teaches in the opposite direction, preferring that the split ring have separated ends (column 2, lines 43-45). The ends of the mounted ring

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separating when engaging the tapered flange structure (28) in order to expand the ring and permit the ring to rotate (column 2, lines 31-32).

(7) Even if the continuous loop member in the Annunziata device could somehow be substituted in place of the Hoffman split ring, it would not engage the tapered flange structure (28 or 104) in the manner described by Hoffman or provide the spring-loaded expansion necessary for correct operation. Nor could the continuous loop, constructed according to the teaching of Annunziata, properly engage teeth or notches (along with the tapered flange structure) to make the Hoffman anti-rotation means operable.

(8) Annunziata does not show or suggest anti-rotation means (or applicant's claimed anti-displacement means) and teaches away from altering the standard construction, as described in the disclosure, of cooperating members in the device. Annunziata therefore cannot suggest combining the continuous loop member with any anti-rotation means, much less that of the applicant's device.

(9) The applicant therefore submits that the Annunziata device does not include anti-rotation means for engaging the loop member to disallow rotation of the loop member from one of the selectable positions, does not include selectable anti-displacement means for engaging the continuous loop member to disallow movement of the continuous loop member from a first one of the selectable positions to a second one of the selectable positions, and that the prior art lacks any suggestion that the reference should be modified in a manner required to meet the claims.

(10) With regard to the rewritten dependent claims 60-71 and 73-83. The rewritten dependent claims incorporate all the subject matter of their respective independent claims and add additional subject matter which makes them patentable over this reference.

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Non-Applied References Do Not Show Applicant's Invention

The last OA cited the following as prior art of record and not relied upon.

US-6,068,149 Telega.
US-4,405,045 Villa-Real.

(1) The applicant has reviewed the references, but they do not show the applicant's invention or render it obvious.

Conclusion

For all of the above reasons, applicant submits that the claims are now in proper form, and that the claims all define patentability over the prior art. Therefore the applicant submits that this application is now in condition for allowance, which action is respectfully solicited.

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Conditional Request For Constructive Assistance

Applicant has amended the claims of this application so that they are proper and define novel structure which is also unobvious. If, for any reason this application is not believed to be in full condition for allowance, applicant respectfully requests the constructive assistance and suggestions of the Examiner pursuant to M.P.E.P. § 707.07(j) in order that the undersigned can place this application in allowable condition as soon as possible and without the need for further proceedings.

Very respectfully,


Harry Giewercer

Applicant Pro Se

29 Hyde Park Drive
Richmond Hill, Ontario Canada L4B 1V2
Tel. (905) 881-1603; Fax. (905) 889-0854

CERTIFICATE OF FACSIMILE TRANSMISSION

I certify that on the date below I will fax this communication, and attachments if any, to Technology Center 2800 of the Patent and Trademark Office at the following central number **(703) 872-9306**.

Date: Aug. 27, 2004 No. of pages: 9

Inventor's Signature: H. Giewercer